IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

MFA.No. 615 of 2002(C)

O.P(M.V).NO.1687/1996 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM DTD. 28/06/2001.

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APPELLANT/PETITIONER:

THILAKAN, AGED 47 YEARS,
S/O.SRI.SREEDHARAN, VENATTU HOUSE,
BEHIND KAPPATTIKKAVU TEMPLE, EROOR-(VIA),
TRIPUNITHURA.

BY ADV. SRI.ANIL S.RAJ,
SMT.K.N.RAJANI,
SRI.RADHIKA RAJASEKHARAN P.

RESPONDENTS/RESPONDENTS:
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1. **S.SENGODAN, S/O.SEERANGA GOUNDER,**
   7/108 C, CHANDRA NAGAR P.O., PALAKKAD.

2. **MATHESWARAN, S/O.RAMASWAMI,**
   DOOR NO.1/60 A, NEAR MARIAMMAN KOVIL,
   KAUNDERPALAYAM STREET, KAUNDERPALAYAM VILLAGE,
   RASIPURAM TALUK, SALEM DISTRICT.

3. **THE UNITED INDIA INSURANCE CO. LTD.,**
   REPRESENTED BY ITS DIVISIONAL MANAGER,
   COCHIN-16.

BY ADV. SRI.SIBY MATHEW,
SRI.PHILIP J.VETTICKATTU.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 14/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & V. GIRI, JJ.

M.F.A. No. 615 of 2002

Dated this the 14th day of August, 2007

Judgment

Koshy,J.

Appellant/Claimant filed an application for compensation contending that while he was walking from south to north along the side of Vyttila-Tripunithura road, a tanker lorry driven by the second respondent hit him and, as a result, he sustained serious disability including fracture femur bone. He claimed compensation of Rs.1,62,750/-. Third respondent insurance company submitted that as per the wound certificate, a Maruti car was involved. Since the driver of the car had no insurance, collusively, tanker lorry number was mentioned and case was filed. Respondent Nos.1 and 2 did not contest the matter. The tribunal found that wound certificate was not produced. Report of the Motor Vehicles Inspector was also not produced. First information statement was given only on the next day. Therefore, tribunal found that there is no evidence to prove that the accident occurred due to the negligence of

the driver of the tanker lorry bearing registration No.KL/9A-3555 insured by the third respondent insurance company. It is also stated that it is likely that the Maruti car which had no insurance might have been stated for claiming insurance and a vehicle which was covered by insurance was replaced. In any event, there is no evidence to prove that the accident occurred as alleged.

In the above circumstances, the tribunal correctly dismissed the claim petition and we see no ground to interfere in the matter. Appeal dismissed.

J.B.KOSHY
JUDGE

V.GIRI
JUDGE

vaa

J.B. KOSHY AND
V.GIRI,JJ.

M.F.A.NO.615/2002

Judgment

Dated:14th AUGUST, 2007